



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II

290 BROADWAY

NEW YORK, NEW YORK 10007-1866

SDMS Document



122856

May 24, 2012

BY OVERNIGHT DELIVERY

Thomas C. Schievelbein
President and CEO
The Brinks Company
1801 Bayberry Court
Richmond, Virginia 23226

Re: Newtown Creek Superfund Site, Kings County and Queens County, New York
Request for Information Pursuant to the Comprehensive Environmental Response,
Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675

Dear Sir:

The U.S. Environmental Protection Agency ("EPA") is charged with responding to the release and threatened release of hazardous substances, pollutants and contaminants into the environment and with enforcement responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. §§ 9601-9675 (also known as the "Superfund" law). More information about CERCLA, including a copy of the Superfund law, may be found at www.epa.gov/superfund.

EPA has documented the release and threatened release of hazardous substances into the environment at the Newtown Creek Superfund Site ("Site"). The Site includes a body of water located in Kings County and Queens County in the City of New York and the State of New York. Newtown Creek is a tidal arm of the New York-New Jersey Harbor Estuary that forms the northwestern-most border between the New York City boroughs of Brooklyn and Queens. It is a tributary of the East River and includes Newtown Creek proper and its five branches (or tributaries) which are known, respectively, as Dutch Kills, Maspeth Creek, Whale Creek, East Branch and English Kills, along an approximately 3.8-mile reach. References in this letter to "Newtown Creek" are meant to include Newtown Creek proper and its tributaries. Further information about the Newtown Creek Superfund site is available on EPA Region 2's website at: <http://www.epa.gov/region02/superfund/npl/newtowncreek/>.

In response to the release and threatened release of hazardous substances into the environment at the Site, EPA has spent public funds and anticipates spending additional public funds. These actions have been and will be taken by EPA pursuant to CERCLA.

The Site has been listed pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, on the national priorities list of releases and threatened releases of hazardous substances, based upon the relative risk or danger to public health or welfare or the environment, for the purpose of taking action pursuant to CERCLA at such sites. Newtown Creek was listed pursuant to EPA rulemaking by publication in the *Federal Register*, on September 29, 2010. A remedial investigation and feasibility study at the Site is currently being undertaken, under EPA oversight, by a group of potentially responsible parties pursuant to an administrative settlement agreement and order on consent. The remedial investigation focuses on a Study Area which includes the sediments and the waters of Newtown Creek.

Historically, Newtown Creek drained the uplands of western Long Island and flowed through wetlands and marshes. However, due to heavy industrial development and governmental activities dating from the 1800s, formerly wet areas have been filled, Newtown Creek has been channelized, and its banks have been stabilized with bulkheads and rip rap.

The Newtown Creek area of Brooklyn and Queens has a history of extensive industrial development stretching back to the 1800s. By the second half of the nineteenth century, the area surrounding and adjacent to Newtown Creek had become highly industrialized. This development resulted in major reworking of the Creek banks and channel for drainage, municipal discharges, and navigation purposes. Hazardous substances discharged by industrial, municipal, and other sources over the years ended up in the Creek. Currently the predominant land use around Newtown Creek includes industrial, manufacturing, warehousing, transportation, municipal infrastructure, and utility facilities. Residential development is planned for the areas near the mouth of the Creek on both the Brooklyn and Queens sides.

The Site includes contaminated sediments for which there are numerous possible sources. Sampling events have shown the sediments in the Creek to be contaminated with a variety of hazardous substances which traverse almost the entire length of the Creek, and which include a wide variety of metals, pesticides, polycyclic aromatic hydrocarbons, phthalates, polychlorinated biphenyls, and volatile organic contaminants.

As part of its investigation of potential sources of contamination to Newtown Creek, EPA is seeking information regarding entities which operated in the vicinity of Newtown Creek. The Brinks Company is receiving this letter because EPA believes that the company, or its related predecessors, formerly owned or operated an oil terminal facility adjacent to Newtown Creek at 498 Kingsland Avenue and may have owned or operated a coal yard facility at 500 Gardner Avenue in Brooklyn, New York that may have discharged or released hazardous substances that ended up in Newtown Creek. Please also note that EPA's investigation of the source of contamination to Newtown Creek is expected to occur in phases. Thus, as EPA obtains information concerning the Site, the Agency may seek further information from your company about its ownership or operation of your company's facilities.

INFORMATION REQUEST

This letter seeks your cooperation in providing information and documents relating to the Site. We encourage you to give this letter your immediate attention. A complete and truthful response to the attached Request for Information should be submitted to EPA within 45 calendar days of your receipt of this letter.

Under Section 104(e) of CERCLA, EPA has broad information gathering authority which allows the Agency to require persons to provide information or documents relating to the materials generated, treated, stored, or disposed of at or transported to a facility, the nature or extent of a release or threatened release of a hazardous substance, pollutant, or contaminant at or from a facility, and the ability of a person to pay for or perform a cleanup.

While EPA seeks your cooperation in this investigation, your compliance with the enclosed Request for Information is required by law. When you have prepared your response to the Request for Information, please sign and have notarized the enclosed "Certification of Answers to Request for Information," and return that Certification to EPA along with your response. Please note that false, fictitious, or fraudulent statements or representations may subject you to civil or criminal penalties under federal law. In addition, Section 104 of CERCLA, 42 U.S.C. § 9604, authorizes EPA to pursue penalties for failure to comply with requests for information.

It is possible that some of the information that EPA is requesting may be considered by you to be confidential business information. Please be aware that you may not withhold the information on that basis. If you wish EPA to treat all or part of the information confidentially, you must advise EPA of that fact by following the procedures described in the Instructions included with the enclosed Request for Information, including the requirement of supporting your claim of confidentiality.

Please note that if after submitting your response you obtain additional or different information concerning the matters addressed by the Request for Information, it is necessary that you promptly notify EPA.

This Request for Information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501-3520.

Your response to this Request for Information (in hard copy for your response letter and pdf for your response letter and documents and attachments) should be sent to:

Michael A. Mintzer
Assistant Regional Counsel
New York/Caribbean Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region II
290 Broadway, 17th Floor
New York, NY 10007-1866
mintzer.michael@epa.gov

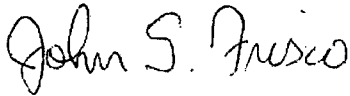
with a copy (in pdf only) to:

Caroline Kwan
Remedial Project Manager
New York Remediation Branch
Emergency and Remedial Response Division
U.S. Environmental Protection Agency, Region II
290 Broadway, 20th Floor
New York, NY 10007-1866
kwan.caroline@epa.gov

If you have any questions regarding this Request for Information, or would like to discuss this matter with EPA, you may call Mr. Mintzer at (212) 637-3168.

We appreciate and look forward to your prompt response to this information request.

Sincerely yours,



for Nicoletta DiForte
Senior Enforcement Policy Advisor
Emergency and Remedial Response Division

cc: Marshall McAlister, General Counsel

INSTRUCTIONS FOR RESPONDING TO REQUEST FOR INFORMATION

A. Directions

1. A complete and separate response should be given for each question.
2. Identify each answer with the number of the question to which it is addressed.
3. Please provide one hard copy of your response letter as well as one copy in pdf format (on diskette) of your response letter and documents and attachments to Mr. Mintzer, and one pdf copy (on diskette) to Ms. Kwan.
4. For each document produced in response to this Request for Information, indicate on the document, or in some other clear manner, the question to which it applies.
5. In preparing your response to each question, consult with all present and former employees and agents of your Company whom you have reason to believe may be familiar with the matter to which the question pertains.
6. In answering each question, identify each individual and any other source of information (including documents) that was consulted in the preparation of the response to the question.
7. If you are unable to give a detailed and complete answer, or to provide any of the information or documents requested, indicate the reason for your inability to do so.
8. If you have reason to believe that an individual other than one employed by your Company, as the term is defined below, may be able to provide additional details or documentation in response to any question, identify that person.
9. If a document is requested but not available, state the reason for its unavailability. To the best of your ability, identify the document by author, date, subject matter, number of pages, and all recipients of the document with their addresses.
10. If anything is omitted from a document produced in response to this Request for Information, state the reason for, and the subject matter of, the omission.
11. If you cannot provide a precise answer to a question, please approximate but, in any such instance, state the reason for your inability to be more specific.
12. If a response to any question is answered completely by a response to another question, or a request for a document has been addressed by a separate production, you may cross reference the responses so that you do not need to provide a duplicate response or duplicate documents.

13. Confidential Information. The information requested herein must be provided even though you may contend that it includes confidential business information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. §§ 9604(e)(7)(E) and (F), and 40 C.F.R. Section 2.203(b).
14. If you make a claim of confidentiality for any of the information you submit to EPA, you must prove that claim. For each document or response you claim to be confidential, you must separately address the following points:
 - a. the portions of the information which are alleged to be entitled to confidential treatment;
 - b. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
 - c. measures taken by you to guard against the undesired disclosure of the information to others;
 - d. the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
 - e. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
 - f. whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp, or type, "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise non-confidential documents should be clearly identified. Please submit your response so that all non-confidential information, including any redacted versions of documents, are in one envelope and all materials for which you desire confidential treatment are in another envelope. For documents submitted in pdf on diskette, please send separate diskettes for confidential information.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so and that it is not and has not been obtainable by legitimate means without your consent. Information entitled to confidential treatment will be disclosed by EPA only to the extent permitted by CERCLA Section 104(e) and 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to you.

B. Definitions

1. As used herein, the term "Newtown Creek" shall refer to Newtown Creek, and shall include its five branches or tributaries, respectively Dutch Kills, Maspeth Creek, Whale Creek, East Branch, and English Kills.
2. As used herein, the term "Site" shall refer to Newtown Creek and any areas that have been a source of contamination to Newtown Creek, or are places where releases of such contamination to the Newtown Creek have come to be located.
3. As used herein, the term "hazardous substance" shall have the meaning set forth in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14). The substances which have been designated as hazardous substances pursuant to Section 102(a) of CERCLA (which, in turn, comprise a portion of the substances that fall within the definition of "hazardous substance" under Section 101(14) of CERCLA) are set forth at 40 CFR Part 302.
4. As used herein, the terms "hazardous waste," "disposal," and "storage" shall have the meanings set forth in Sections 1004(3), (5), and (33) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6903(3), (5), and (33), respectively.
5. As used herein, the term "industrial waste" shall mean any solid, liquid or sludge or any mixture thereof which possesses any of the following characteristics:
 - a. it contains one or more "hazardous substances" (at any concentration) as defined in 42 U.S.C. § 9601(14);
 - b. it is a "hazardous waste" as defined in 42 U.S.C. § 6903(5);
 - c. it has a pH less than 2.0 or greater than 12.5;
 - d. it reacts violently when mixed with water;
 - e. it generates toxic gases when mixed with water;
 - f. it easily ignites or explodes;
 - g. it is an industrial waste product;
 - h. it is an industrial treatment plant sludge or supernatant;
 - i. it is an industrial byproduct having some market value;
 - j. it is coolant water or blowdown waste from a coolant system;
 - k. it is a spent product which could be reused after rehabilitation; or
 - l. it is any material which you have reason to believe would be toxic if ingested, inhaled or placed in contact with your skin.
6. As used herein, the term "release" shall have the meaning set forth in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

7. As used herein, the term "Company" refers to the addressee of this letter and its current and past constituent and affiliated entities that may have owned, controlled, leased or operated or had rights to operate at the Facility.
8. As used herein, the term "affiliate" or "affiliated" refers to all entities now or formerly controlling, controlled by or in common control with the Company, and whether currently in existence or no longer in existence.
9. As used herein, the terms:
 - a. "Terminal Facility" shall mean the facility located at 498 Kingsland Avenue, Brooklyn, New York (Borough of Brooklyn, Block 2517, Lot 14) together with the structures, infrastructure and other improvements located thereon; and
 - b. "Coal Facility" shall mean the facility located at 500 Gardner Avenue, Brooklyn, New York (Borough of Brooklyn, Block 2815, Lot 2) together with the structures, infrastructure and other improvements located thereon.
 - c. "Facility" or "Facilities" shall mean, as the context suggests, either or both the Terminal Facility and the Coal Facility.
10. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known employer and business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, occupation, position, or business.
11. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (*e.g.*, corporation, partnership, business trust, etc.), a brief description of its business and its ultimate parent corporation.
12. Other defined terms:
 - a. As used herein, the term "Facility Plan" means a diagram of the Facility.
 - b. As used herein, the term "MSDS" means Material Safety Data Sheet.
13. All terms not defined herein shall have their ordinary meanings, unless such terms are defined in CERCLA or RCRA or in their implementing regulations, in which case the statutory or regulatory definitions apply.

REQUEST FOR INFORMATION

Section 1.0 Company Information

1. Company Identification: Provide the following information with respect to the Company.
 - a. The full legal, corporate name and mailing address.
 - b. The state and date of incorporation of the Company, the date of qualification to do business in the State of New York and the Company's agents for service of process in the state of incorporation and the State of New York.
 - c. The identity of the Chief Executive Officer or other presiding officer of the Company.
 - d. If the Company is a successor to any other entity by merger, asset or stock acquisition, change of name or other activity, identify each predecessor and identify the nature of the succession.
 - e. If the Company is a subsidiary or division of another entity, identify each parent entity and date and state of incorporation or organization and date of qualification to do business in New York State and that entity's agents for service of process in the state of incorporation and the State of New York.
2. Future EPA Communications: If the addressee of this letter requests that future communications from EPA regarding the Site be sent to a particular individual or office, provide the name, address, telephone number, e-mail address and capacity of such individual or office.

Section 2.0 Company Owner/Operator Information of the Facilities

3. Company's Relationship to the Terminal Facility. Identify the Company's relationship to the Terminal Facility (see Definition number 9.a for "Terminal Facility"), including:
 - a. The Company's ownership and operational interest in the Terminal Facility including the corporate identity of any entity affiliated with the Company that holds or held such interest.
 - b. Dates of acquisition and disposition of Company's ownership of the Terminal Facility and the identity and relationship, if any, between the Company and the transferor and transferee.
 - c. Dates of the Company's operation at the Terminal Facility.
 - d. The principal business and each other line of business conducted by the Company at the Terminal Facility.
 - e. Identify all entities (e.g., lessees, licensees, joint venture partners) which concurrently with the Company exercised actual control or who held significant authority to control activities at the Terminal Facility.
 - f. Provide a copy of all instruments evidencing the acquisition, disposition, lease,

etc. of the Terminal Facility.

- g. Identify the Company's relationship, if any, to the following entities, and the interest of each such entity at the Terminal Facility. Please provide corporate documentation including certificates of organization, certificates of merger, and certificates of change of name:

- i. The Pittston Company.
- ii. Metropolitan Petroleum Corporation.
- iii. Petroleum Heat and Power Company.
- iv. Metropolitan Petroleum Company, Inc. (organized 1976 with subsequent name changes to Pittston Petroleum Inc. (1980); Ultramar Petroleum Inc. (1983), Atlantic Fuels Marketing Corporation (1987); and AFMC Inc. (1991).

- 4. Company's Relationship to the Coal Facility. Identify the Company's relationship, if any, to the Coal Facility (see Definition number 9.b for "Coal Facility"), including:
 - a. Identify The Company's ownership and operational interest in the Coal Facility including the corporate identity of any entity affiliated with the Company that holds or held such interest.
 - b. Dates of acquisition and disposition of Company's interest in the Coal Facility and identity and relationship, if any, between the Company and the transferor and transferee.
 - c. Dates of the Company's operation at the Coal Facility.
 - d. The principal business and each other line of business conducted by the Company at the Coal Facility.
 - e. Identify all entities (e.g., lessees, licensees, joint venture partner) which concurrently with the Company exercised actual control or who held significant authority to control activities at the Coal Facility.
 - f. Provide a copy of all instruments evidencing the acquisition, disposition, lease, etc. of the Coal Facility.
 - g. Identify the Company's relationship, if any, to the following entities, and the interest of each such entity at the Terminal Facility. Please provide corporate documentation including certificates of organization, certificates of merger, and certificates of change of name:
 - i. Fler Bros. Fuel Service.
 - ii. 500 Gardner Avenue Corporation.

- 5. Company's Relationship to any other Facility in the Vicinity of Newtown Creek. Identify any other facility or property owned or operated by the Company located within 1,000 feet of Newtown Creek and identify the Company's interest in such facility and the activities that the company conducted at each such facility.

6. Photographs, maps, drawings, surveys, Sanborn maps. Provide depictions of the Facilities at the time that they were owned or operated by the Company, including, a diagram of each Facility ("Facility Plan"), as well as photographs, maps, surveys or Sanborn maps in the Company's possession showing the location and configurations of
- buildings and improvements;
 - sanitary and storm sewers;
 - solid waste management units;
 - sumps;
 - below-ground infrastructure including tanks and pipes;
 - above-ground structures and infrastructure including tanks, spill containment facilities, pipes and truck racks;
 - over-water or in-water facilities (e.g., piers, docks, cranes, bulkheads, pipes, treatment facilities, etc.); and
 - discharge facilities including pipes, ditches or other conveyance features.
7. Ownership of Newtown Creek: At the present time or at any past time, has the Company or any affiliate:
- Owned any portion of Newtown Creek or wetlands associated with Newtown Creek?
 - Asserted control over or exclusive rights to use any area of Newtown Creek or wetlands associated with Newtown Creek, for any purpose including, without limitation, dredging, filling, construction, maintenance or repair of any facility located in the waters, the associated wetlands or sediments, including, by way of example, bulkheads, rip rap, pipes, wharfs, piers, docking, loading or unloading facilities, cranes or other over-water facilities?
 - If the answer to either subparagraph "a" or "b" of this paragraph is yes, please identify the areas owned or controlled, or over which the Company has or had a right to use, provide an explanation of how and from whom the Company acquired such ownership or control, provide a copy of all title documents, leases, permits or other instruments where such right was derived, and describe all activities conducted pursuant thereto.
8. Operations In Newtown Creek:
- Identify and show on the Facility Plan all current and previous Company outfalls or discharge points from the Facilities into Newtown Creek, including location, gallons per day, and source of influent and associated permits.
 - Describe all activities at the Facilities that were conducted over, on, under, or adjacent to, Newtown Creek. Include in your description whether the activity involved hazardous substances, industrial waste, petroleum or other waste materials and whether any materials were ever discharged, spilled, disposed of, dropped, or otherwise came to be located in Newtown Creek.

- c. Has the Company, or any affiliate, at any time, constructed or operated any facility in or over the waters or on the sediments of Newtown Creek, including any bulkheads, rip-rap, pipes wharfs, piers, docking, loading or unloading facilities, containment booms, cranes or other on-water or over-water facilities?
- d. Has the Company, or any affiliate, at any time constructed, operated or utilized any facility under the waters or sediments of Newtown Creek, including without limitation pipes, pipelines, or other underwater or under sediment facilities?
- e. If the answer to subparagraph "b" or "c" of this paragraph is yes, please provide details including:
 - i. the facilities constructed or operated, the dates of such construction, replacement or major modification, whether there were discharges into the waters of Newtown Creek associated with construction or maintenance of such facilities, all permits associated with the construction or operation; and
 - ii. the source of the Company's authorization to construct or maintain such facilities in Newtown Creek including identification of the operating document (deed, lease, easement, license, permit, etc.) and the identity of the grantor, and provide copies of the relevant deeds, leases, licenses and permits.
- f. Provide a summary of over-water activities conducted at the Facilities, including but not limited to, any material loading and unloading operations associated with vessels, materials handling and storage practices, ship berthing and anchoring, ship fueling, cleaning, maintenance, or repair.

9. Fill. With regard to the placement of fill at the Facilities:

- a. Was any fill placed on the Facilities property during the initial development or subsequent redevelopment of the Facilities? If so, identify all areas of the Facilities where fill was placed, the lateral extent of the fill and the depth of the fill, the purpose of the placement, the source and amount of the fill in each area. State whether the fill has ever been characterized, either before placement or thereafter and, if so, provide a copy of the sampling/characterization results.
- b. Were any portions of the Facilities historically part of Newtown Creek or did the Facilities formerly include any marshlands or wetlands associated with Newtown Creek? Please depict any such wet areas on the Facility Plan. Please provide your understanding of who filled any such wet areas, the approximate date of such fill, and the lateral extent and depth of such fill, the source of the fill material, the composition of the fill and, if any sampling has ever been done of such filled areas, provide a copy of the sampling results.

10. Vessels. Has the Company utilized barges, tankers or other vessels in any operations on Newtown Creek and, if so, provide details? With respect to vessel operations, identify products and raw materials transferred to or from vessels and manuals, spill prevention

methodologies and Company manuals and reports prepared pursuant to 33 CFR Part 155 or predecessor regulations.

11. Data and Reports. Provide a copy of all reports, information or data you have related to soil, water (ground and surface), or air quality and geology/hydrogeology at and about the Facilities. Provide copies of all documents containing such data and information, and analysis or interpretation of such data.
12. Solid Waste Management Units. Identify all solid waste management units or areas (e.g., waste piles, landfills, surface impoundments, waste lagoons, waste ponds or pits, drainage ditches, tanks, drums, container storage areas, etc.) at the Facilities. For each such unit or area, provide the following information, if available:
 - a. the type of unit/area (e.g., storage area, landfill, waste pile, etc.), dimensions and dates of use of the unit/area;
 - b. the purpose and past usage (e.g., storage, spill, containment, etc.);
 - c. the quantity and types of materials (hazardous substances and any other chemicals) located in each unit/area;
 - d. the volume, size and construction (materials, composition) of each unit/area; and
 - e. if the unit/area described above was closed by the Company, explain how such unit/area was closed and provide relevant documentation.
13. Pipes, Drains, Sheet flow, Etc. Identify each pipe, ditch or other conveyance, including sheet flow, ("conveyance") that currently or formerly drained the Facilities. State whether such conveyance discharged to Newtown Creek or to another conduit or discharge location. Include in your response:
 - a. the type (pipe, ditch, sheet flow) of conveyance;
 - b. the location of each conveyance at each Facility;
 - c. the source of effluent (whether at the Facility or from an upland source) and, if an upland source, the identify of upland facilities connecting to sewer lines, drains, ditches or sheet flow; and
 - d. show each such conveyance on the Facility Plan.
14. Facility Drainage Studies. Provide copies of any storm water or drainage studies for each of the Facilities, including data from sampling, conducted for the respective Facility on storm water, sheet flow, or surface water runoff.
15. Connections to New York City sewer system:
 - a. State whether the Facilities were connected to the New York City sewer during the Company's ownership or operation and the date that each of the Facilities was first connected.
 - b. State whether the Facilities ever discharged liquid wastes other than through the New York City sewer system and, if so, provide details on such discharges.

- c. State whether the Facilities participated in the New York City pretreatment program, whether the Company has ever been classified as a significant industrial user, and whether the Company has ever been in violation of sewer use requirements or permits or received any notices of violation relating to use of the New York City sewer system.
- d. Provide copies of all permits and permit applications for New York City Industrial Wastewater discharge permits.
- e. Provide copies of all notices of violations, correspondence, hearing transcripts and dispositions relating to the Company's use of the New York City sewer system.
- f. Provide copies of any Baseline Monitoring Reports submitted to New York City in connection with the Company's application for an industrial wastewater discharge permit.
- g. Provide copies of all surveys, reports or analyses delineating or characterizing the Company's liquid wastes.

Section 3.0 Company's Operational Activities

16. Company's Business Operations. Separately for each of the Facilities, describe the Company's operations or business activities at such Facility. If the products, processes, operation, or business activity changed over time, please identify each separate operation or activity, the dates when each operation or activity was started and, if applicable, ceased. Also, please provide the following:
 - a. Identify the principal business conducted at each of the Facilities and all other business activities conducted at each Facility;
 - b. Identify each industrial process employed at each Facility and the raw materials used and the wastes generated;
 - c. Provide a schematic diagram that indicates which part of the Company's operations generated each type of waste, including but not limited to wastes generated by cleaning and maintenance of equipment and machinery and wastes resulting from spills of liquid materials;
 - d. Provide copies of Material Safety Data Sheets ("MSDSs") for raw materials used and products produced in the Company's operations at the Facility.
17. Cleaning of Tanks, Machinery and Equipment. Identify tank cleaning procedures, chemicals and other materials used in cleaning operations, and management of bottoms and other wastes resulting from cleaning operations.
18. Chemicals and Other Materials Used, Produced and Generated at the Facility. Identify the materials received at each of the Facilities, all products produced or shipped from the Facilities and all wastes resulting from the Company's operations.
 - a. For receipt of materials, please identify all such materials (including petroleum or petroleum products) being specific in identifying such each item including brand

name of any chemical or, if generic, the identity and description of such material, the purpose for which it was received and the process in which it was employed. Please provide copies of MSDSs for each such chemical. Identify the annual volume of receipt of such materials.

- b. Identify all products produced at the Facility or shipped from the Facility and, if applicable provide copies of MSDSs. Identify the approximate annual volume of production at the Facility by product line.
 - c. Describe what the Company did with the hazardous wastes, hazardous substances, and industrial wastes that it used, stored, generated, or otherwise handled at the Facility after it was finished with them? Describe in detail how and where the hazardous substances, hazardous wastes, and industrial wastes generated at the Facility. For each disposal location and method, state the nature and quantity or the material disposed on an annual basis.
19. Oil/Water Separators. Identify all oil/water separators at the Terminal Facility during the Company's ownership or operation including dates of installation, dates of replacement or major modification, purpose of installation and source of influent, and location of discharge. Provide a copy of each permit and permit application, influent and effluent sampling results and copies of all submissions to federal, state, city or county environmental agencies or public health agencies relating to oil/water separators.
20. Storage Tanks. Identify each fixed above-ground storage tank and each fixed below-ground storage tank that is or was situated on the Terminal Facility during the Company's ownership or operation. Provide a copy of all permits relating to the tank and provide a copy of all Company written manuals or procedures, including manuals that have been superseded by newer manuals or procedures, addressing use and maintenance of such tanks. For each tank, identify:
 - a. Date of installation and dates and nature of major modifications.
 - b. Dates of installation and nature of spill detection equipment.
 - c. Dates of installation and nature of cathodic protection equipment.
 - d. Description or drawings of any such tank.
 - e. The identity of contents that have been stored in any such tank both before (if known) or during the Company's ownership or operation.
 - f. Tank cleaning practices.
 - g. Manner of ultimate disposal of wastes from the tank.
 - h. Identify all spills that occurred during the Company's ownership of the Facility.
 - i. Copies of reports or manuals in the Company's possession relating to the storage tanks and the foregoing questions.
21. Storage and Combustion of Coal. Did the Company store or combust coal at either Facility during the time of its ownership or operation? If your answer is yes, please respond to the following requests for information for all periods of time that the Company operated at or owned the Facility:

- a. The purpose for which coal was present at the Facility.
 - b. The annual volume and type or types of coal (i.e. bituminous, anthracite, etc.) handled at the Facility.
 - c. The location and manner of coal storage at the Facility
 - d. Identify all coal storage, shipment and transfer and process locations on the Facility Plan.
22. Identify and depict on the Facility Plan, each pipeline serving the Terminal Facility that is or was situated on the Terminal Facility property (either above- or below-ground) during the Company's ownership or operation.

Section 4.0 Civil Litigation, Administrative Enforcement and Criminal Matters

23. Civil Litigation, Administrative Enforcement and Criminal Matters:
- a. Has the Company or an affiliate been a party to any litigation or involved in any other claim where an allegation by or against the Company included environmental contamination of Newtown Creek or contamination of any upland property located within 1,000 feet of Newtown Creek (whether the claim was based on the Company's alleged ownership, operation, transporter status, or arranger relationship to the facility or some other basis)? If yes, identify such litigation or claim, briefly describe the allegation by or against the Company, the status of the litigation or claim, and provide a copy of the pleadings and any settlement agreement or court order.
 - b. Has the Company or an affiliate been identified by EPA or by any New York State or New York City agency as a party responsible for environmental contamination at or from Terminal Facility or Coal Facility or at or from any other upland facility located within 1,000 feet of Newtown Creek (whether the claim was based on the Company's alleged ownership, operation, transporter status, or arranger relationship to the facility or some other basis)? If yes, state the Company's understanding of the basis for such notice of responsibility and provide a copy of any correspondence, orders or agreements between the Company and the governmental agency.
 - c. Has the Company or an employee, affiliate, contractor or agent ever been accused of any criminal violation relating to illegal disposal or any other environmental matter in connection with any activity or operation at either Facility? If so, describe the disposition of such accusation and provide details on such accusation.

Section 5.0 Facility Releases, Investigations and Remediation

24. Releases at or from the Facilities. Has the Company or the Company's contractors, lessees, tenants, or agents ever provided notice to or made a report to any EPA or any New York State or New York City agency concerning a spill or release involving the

Facilities or involving Newtown Creek? If so, describe each spill or release and provide copies of all communications between the Company and federal, state or local regulatory agency.

25. Soil Removal Actions. Has any contaminated soil ever been excavated or removed from the Facilities? If yes, identify the reason for such soil action, the dates of such action, the location at the Facility and whether the soil removal was performed under the oversight of any EPA, NYSDEC or NYCDEP or any other regulatory agency. Provide copies of all reports containing a description of the soil excavation and all data and analyses and copies of any orders or agreements with any regulatory agencies that required or oversaw the work.
26. Groundwater Action. Has the Company treated, pumped, or taken any kind of response action on groundwater under the Facilities? If yes, identify the reason for such groundwater action, the dates of such action, the location at the Facility, and whether the groundwater action was performed under the oversight of any EPA, NYSDEC or NYCDEP or any other regulatory agency. Provide copies of all reports containing a description of the groundwater action and all data and analyses, and copies of any orders or agreements with any regulatory agencies that required or oversaw the work.
27. Releases into Subsurface units. Was there ever a spill, leak, release or discharge of waste, or process residue, including hazardous substances, pollutants, contaminants, industrial waste, or petroleum, into any subsurface disposal system or floor drain inside or under a building situated at either of the Facilities? If yes, provide details of each event and any communication with any federal, state or city regulatory body.
28. Releases to Newtown Creek. Was there ever a spill, leak, release or discharge of a hazardous substance, industrial waste, petroleum or other waste, or material into Newtown Creek from the Facilities or from any equipment, structure, or activity occurring on, over, or adjacent to Newtown Creek? If yes, identify such release and provide copies of any documents regarding the nature of the material released, the dates of each such occurrence, the amount and location of such release; and whether there was any action to treat or recover any materials that were the subject of the release. Provide copies of all reports containing a description of the groundwater action and all data and analyses, and copies of any orders or agreements with any regulatory agencies that required or oversaw the work.
29. Environmental Investigations at the Facilities. Describe the purpose for, the date of initiation and completion, and the results of any investigations of soil, water (ground or surface), sediment, geology, hydrology, or air quality on or about either of the Facilities. Provide copies of all data, reports, and other documents that were generated by the Company or any contractor or consultant, or by a federal or state regulatory agency related to the investigations that are described.

30. Phase I, Phase II and Other Environmental Investigations. Please provide copies of all environmental investigation reports in the Company's possession relating to the Facilities or either of them.

Section 6.0 Regulatory Information

31. Regulatory Agencies with Jurisdiction Over the Facilities. Identify each federal, state and local authority that regulates environmental concerns relating to the ownership or operation at the Facilities, the contact point at such agency, the activity regulated and the applicable federal, state and local statute or regulation from which such regulatory authority was derived.
32. Notices of Violation. Describe all occurrences associated with violations, citations, deficiencies, and/or accidents concerning the Facilities related to environmental concerns. Provide copies of all documents associated with each occurrence described.
33. Environmental Permits. Provide a list of all local, state and federal environmental permits which have been applied for or issued to the Company with respect to the Facilities for any media, e.g., water (including State Pollutant Discharge Elimination System and National Pollutant Discharge Elimination System, New York City sewer, Industrial Pretreatment Program or any other wastewater discharge related governmental authorization or notice), excavation and fill in navigable waters, dredging, tidal wetlands, air, solid waste or hazardous waste, bulk storage, industrial wastewater, etc. under any environmental statute or regulation. Provide a copy of each federal or state permit and the applications for each permit.

Section 7.0 Compliance with this Request and Financial Information

34. Persons and Source Materials Consulted in Your Response: Identify all persons, other than counsel, that the Company consulted, and all source materials that the Company reviewed in responding to this request, including, but not limited to, the names of persons consulted, the contact information for such person, and if the person is a current or former employee, the job title and responsibilities for such persons and the dates of employment, and identify which questions the person was consulted about.
35. Persons Having Responsibility for Environmental Matters at the Facilities. Identify all individuals who currently have and those who have had responsibility for the Company's environmental matters (e.g. responsibility for the disposal, treatment, storage, recycling, or sale of the Company's wastes). Also provide each such individual's job title, duties, dates performing those duties, supervisors for those duties, current position or the date of

the individual's resignation, and the nature of the information possessed by such individuals concerning the Company's waste management.

36. Financial Information: Provide a copy of the Company's certified annual financial statements for each of the most recent three years.
37. Insurance and Indemnification:
- a. Provide a schedule of liability insurance policies that may provide coverage to the Company for environmental liability associated with Newtown Creek.
 - b. Identify each entity that may have a duty to indemnify the Company for any potential environmental liability in connection with Newtown Creek, identify the circumstances giving rise to the indemnity, and provide a copy of any document that reflects a requirement to so indemnify the Company.
 - c. Identify each entity that the Company has agreed to indemnify for any potential environmental liability in connection with Newtown Creek. Provide a copy of any document that reflects a requirement to indemnify by the Company.

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION
NEWTOWN CREEK SUPERFUND SITE

State of _____:

County of _____:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information) and all documents submitted herewith, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that the Company is under a continuing obligation to supplement its response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or my Company's response thereto should become known or available to the Company.

NAME (print or type)

TITLE (print or type)

COMPANY NAME

SIGNATURE

Sworn to before me this _____ day of _____, 2012

Notary Public

My commission expires: _____

[STAMP OR SEAL]